statute, and in which the procedure is not according to common law, no appeal lies from its action unless expressly provided for. *Sullivan v. Haug,* 82 Mich. 548; *Kramer v. Cleveland & Pittsburgh R. Co.,* 5 Oh. St. 125 (*140); *Miles City v. Drum* (Mont., 1921), 199 Pac. 719; *In re Muskogee Gas & Electric Co.* (Okla., 1921), 201 Pac. 358; *Thomas v. Elliott,* 215 Mo. 598. Because of such rule, where a statute confers a right of appeal in certain named cases it impliedly negatives the existence of the right in those not named, and it would seem that the statute in the principal case not having provided for an appeal from the circuit court, none was intended. The argument of the dissenting opinion was based on an interpretation and application of the general statutes relating to appeals, it being contended that when this case reached the circuit court it was then within the general jurisdiction of that court and was no longer before a special tribunal. On that point see *Naylor v. Naylor.* 60 Tex. Civ. App. 606, holding that where a special and exclusive authority is conferred on a court of general jurisdiction, and no appeal from its action is provided, the decision of such court is final and no appeal lies therefrom. See also *French v. Lighty,* 9 Ind. 452 (*475), and *Allen v. Hostetter,* 16 Ind. 15, where it was held that general statutes upon the subject of appeal do not embrace proceedings under special acts where the latter do not include a provision authorizing an appeal. The decision in the principal case seems to be in accord with the general trend of previous decisions in that state. See *Gillan v. Board of Regents,* 88 Wis. 7; *State ex rel. Cook v. Houser,* 122 Wis. 534; *Clancy v. Board of Fire and Police Comrs. of Milwaukee,* 150 Wis. 630.

BAIL—FORFEITURE EXCUSED BY IMPRISONMENT IN ANOTHER STATE.—Defendant was accused of carrying concealed weapons and bound over to the district court. His wife borrowed and deposited in court $1,400 as bail for his appearance at the November term, but when his case was called defendant was serving a life sentence in a prison in an adjoining state. *Held,* the court erred in denying a motion to undo the forfeiture of his bail. *State v. Williams* (N. D., 1922), 189 N. W. 625.

It was stated in the case of *Taylor v. Taintor,* 83 U. S. 366, that in order to exonerate the bail the performance of the condition thereof must be rendered impossible by an act of God, an act of the obligee, or an act of the law. An arrest in another jurisdiction for a separate and distinct offense is generally held not to be such an act of the law as will operate to discharge the sureties on a bail bond. *Taylor v. Taintor, supra; U. S. v. Marrin,* 170 Fed. 476. For a full citation of authorities, see notes to *State v. Funk,* 20 N. D. 145, Ann. Cas. 1912C, 748, 30 L. R. A. (N. S.) 211; *Hargis v. Begley* (Ky.), 23 L. R. A. (N. S.) 136. The reason of the rule is that the performance of the contract has not been prevented by the act of the state which is the obligee and with reference to whose laws the contract was entered into. As pointed out by Justice Swayne in *Taylor v. Taintor, supra,* "There is a distinction between the act of the law proper and the act of the obligor, which exposes him to the control and action of the law." To counsel's insistence on this rule Judge Robinson, in the principal case, answered

that it was too technical. A more tenable ground for the decision is suggested by the opinion of Judge Bronson, who specially concurred. Section 11,125, C. L. 1913, it was argued, placed the matter of forfeiture within the discretion of the court, and the circumstances of the case were of a character to provide a satisfactory excuse for the next or failure of the defendant to appear. But see *U. S. v. Marrin, supra,* where a federal court refused to exercise the discretion with which it was vested by statute when defendant had voluntarily gone into another jurisdiction with knowledge of the indictments there impending against him.

CONTRACTS—ILLEGALITY OF RESTRICTIVE COVENANT IN CONTRACT FOR SALE OF CHATTEL UNDER CLAYTON ACT.—Petitioner, a manufacturer of patterns, granted respondent, a retail drygoods company, an agency for the sale of its patterns. Petitioner agreed to sell to respondent at a fifty per cent discount; to replace patterns which were out of date; and to repurchase the stock at the termination of the contract. Among other things, the respondent agreed not to sell goods of a competitor of the petitioner. In an action to restrain respondent from selling goods of a competitor, *held,* the contract was a contract of sale and not an agency contract, and restrictive covenant is unenforceable under Section 3 of the Clayton Act, which provides that: "It shall be unlawful to make a contract for the sale of goods * * * on condition that the purchaser thereof shall not deal in the goods of a competitor * * * where the effect may be to substantially lessen competition." *Standard Fashion Company v. Magrane-Huston Company,* Supreme Court U. S., No. 20, October term, 1921.

At the Common Law such restrictive covenants have been upheld. *Gervais v. Paquette,* 37 Quebec Super. 501; *Whitwell v. Cont. Tob. Co.,* 125 Fed. 455; *Peerless Pattern Company v. Gauntlett Company,* 171 Mich. 158; *Buckhout v. Witwer,* 157 Mich. 406; *Riply & Sons v. Art Wall Paper Company* (Okla.), 136 Pac. 1080; *Home Pattern Company v. Mascho,* 46 Okla. 55. The Sherman Act sought to control this sort of an agreement, but, in the language of the court in the principal case, "with unsatisfactory results so far as the purpose to maintain free competition was concerned." The Clayton Act now "reaches the agreements embraced within its sphere in their incipiency * * * and declares illegal contracts of sale made upon the agreement or understanding that the purchaser shall not deal in the goods of a competitor of the seller which may substantially lessen competition or tend to create a monopoly." By this decision the court does not seek to invalidate every contract where one agrees to buy exclusively from another, but only such contracts which tend to create a monopoly.

CRIMES—ACCIDENTAL KILLING CALLED MURDER TO BRING IT WITHIN THE STATUTE.—After the accused was interrupted by the entrance of neighbors in his attempt to rob a store, he put up his revolver and tried to escape. When again intercepted he drew the weapon, and in the crowd outside the door the revolver was discharged, killing deceased. Defense, that since the gun was accidentally discharged in a struggle for possession and not fired